

REMARKS

The Examiner inquires whether the current application is a continuation-in-part of the provisional Application Serial No. 60/278,738 (the '738 Application), filed March 26, 2001. The current application claims the benefit of the provisional '738 Application as to common subject matter first disclosed in the '738 Application. The original declaration contained a clerical error in listing the declaration as a continuation-in-part. A supplemental declaration will be submitted upon the indication of allowance.

The drawings are objected to because they do not include reference sign 21 in Fig. 4A-4E. Figs. 4A and 4E have been amended to insert reference sign 21.

Claims 20-44 have been canceled.

Claims 45 and 46 have been canceled as being drawn to a non-elected invention.

Claims 1-19 remain pending in the application. Of these, claims 4, 7, 11, 12, 15 and 18 are withdrawn from consideration. Upon the allowance of a generic claim, Applicant respectfully requests consideration of the withdrawn claims. Claims 1, 5, 6, 9, 16 and 17 are currently amended.

Claims 1, 2, 5, 6, 8, 9, 13, 14, 16, 17 and 19 are rejected under 35 U.S.C. §102(b) based on Bradley et al. U.S. 5,626,128 (Bradley '128). Bradley '128 discloses an apparatus 10 having a bite block (body 20) carrying gripping jaws 44. The apparatus of Bradley '128 requires the use of an adhesive for positioning the block 20 within an oral cavity (see col. 3, lines 47-61). Claims 1 and 9 have been amended in view of this rejection to define an apparatus in which a bite block is configured for positioning within the oral cavity without use of an adhesive.

Claims 1-3, 5, 6, 8-10, 13, 14, 16, 17 and 19 are rejected under 35 U.S.C. §102(b) based on Rogers et al. U.S. 5,555,881 (Rogers '881). The Examiner acknowledges that the lip bumper 16 of Rogers '881 prevents the entrance of the tubular member/collar 12 to meet the functional limitation of the instant claims. The Examiner additionally asserts that "the broad language of the claims allows the interpretation of the tubular member 114 to anticipate the claim." The tubular member 114 in the device of Rogers '881 is an endotracheal tube (i.e., an external instrument). The tubular member 114 of Rogers '881 is not adapted to receive an external instrument, as defined by the amended claims 1 and 9.

Dependent claims 5, 6, 16 and 17 have been amended in accordance with the amendments to independent claims 1 and 9.

Application Serial No. 10/017,685

Amendment B

Page - 6 -

Dependent claims 5, 6, 16 and 17 have been amended in accordance with the amendments to independent claims 1 and 9.

Reconsideration in view of the foregoing amendments and remarks and allowance of claims 1-19 is respectfully requested.

Respectfully Submitted,

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